

Sen. David Vitter, Louisiana
Testimony before the House Government Reform Subcommittee on
Regulatory Affairs
Hearing on the Small Business Paperwork Amnesty Act of 2006

September 26, 2006

Chairwoman Miller and members of the Subcommittee, I want to thank you for holding this hearing today. The topic of the hearing – the Small Business Paperwork Amnesty Act – is very important, and I am thankful for the invitation to be here today.

There are so many agencies that our small businesses have to answer to and file paperwork with that it is sometimes a wonder to me how it can be done and still leave time to run a business, grow a business, or do anything else. I know businesses in Louisiana, depending on the nature of the business or where the business is located, have to deal with many federal agencies. Off the top of my head, these agencies include the EPA, the Army Corps of Engineers, the Coast Guard, SBA, Labor, Commerce, IRS, and Customs, just to name a few. And that doesn't even count the state regulatory agencies, such as the Departments of Revenue, Labor, Wildlife and Fisheries, Insurance, Environmental Quality, and others. And then there are local governments. The compounded effect of these levels of regulation can be suffocating to the entrepreneurial spirit of small business owners.

While I understand the need for some basic level of regulations to protect consumers and to protect the public health and welfare, the massive amount of regulations and paperwork small businesses face today is overwhelming and way beyond what is reasonable to protect the public. The compliance costs grow each year, increasing the cost of doing business and hampering our competitiveness in the world market.

In September of last year, the SBA Office of Advocacy released a study that gave us a glimpse of the burden small businesses have from federal regulations. Businesses with fewer than 20 employees spend more than \$7,600 per employee to comply with federal regulations. In addition, NFIB estimates Americans spend more than \$400 billion in costs relating to federal paperwork. That is nearly the amount of spending we will pass later this week in the Defense Appropriations bill – what a staggering waste of time and resources on paperwork!

While we have made significant progress in the past with the passage of other regulatory relief legislation, there is still much to do. I will continue to advocate for reductions in regulatory costs and burdens, a fairer and simpler tax code, and a drastic reduction in time-consuming, often duplicative paperwork demanded from government agencies. However, as we continue to push for these drastic reforms, we need a temporary release valve, a quick solution.

Too often, from reports I have heard from small business owners, the federal regulators seem to be playing a “gotcha” game – fining small businesses for paperwork violations just for the sake of issuing the citation. Bureaucrats, too often, act in an oppressive way with the regulatory power they yield.

With the massive burden I briefly mentioned, and that the subcommittee will hear more about during the second panel today, there should be understanding and forbearance when minor paperwork violations occur. The intent of paperwork fines should not be to create a new revenue stream from fines or to make criminals out of small business owners. Instead, these regulations, while currently being way out of hand and costly as I mentioned, are intended to protect the general health, protect our environment, or protect consumers. If a minor paperwork violation occurs, federal regulators should have the ability to waive fines for first time offenses and allow the business owner to correct the problem in a reasonable time frame.

The Small Business Paperwork Amnesty Act of 2006, which I introduced in the Senate and which Rep. Neugebauer introduced in the House, would help give small businesses some small amount of relief from the federal regulatory regime. Our former colleague Rep. David McIntosh of Indiana first introduced this legislation in 1998, and after he left Congress, I introduced it in the 107th and 108th Congresses while I was serving in the House of Representatives. This Congress, I have introduced it in the Senate, and I am pleased to be working with Rep. Neugebauer as the lead sponsor in the House.

This bill would direct federal agencies not to impose civil fines for a first-time paperwork violation by a small business unless the violation would cause serious harm to the public interest, impairs criminal investigations, concerns collection of taxes, is not corrected within six months, or presents danger to public health or safety. Also, the bill says that fines can be waived in the case of a violation that could present a danger to public health or safety if the violation is corrected within 24 hours of the small business receiving notification of the violation.

So, in short, this bill would provide a reasonable, one-time pass for minor paperwork violations, unless the violation is of a grave nature and as long the small business owner corrects the problem promptly. That is a reasonable thing to do, and I believe it is something we should do now, while we continue to work on broader reform of our regulatory system and to lower the burdens on small businesses.

I know many of the arguments against this bill are that it would encourage business owners to break the law. Opponents of the bill may argue that devious business owners could wait for their free shot before filling out required documents. I cannot see how that could be the case, as the bill does not remove any obligations, only temporarily providing relief from fines. Also, the bill expressly limits the relief to first time violations, not a series of violations regardless if they are caught right away or not. And, there are the exceptions that preserve fines in case of serious violations.

The intent of the bill is to inject some common sense into our regulations. With so much paperwork required from small businesses, with so many I's to dot and T's to cross, it is easy for business owners to make minor mistakes. These fines can be very punitive, many times with assessments in the hundreds or thousands of dollars a day. I do not think we should bring down the hammer on innocent mistakes. Instead, we should focus our enforcement efforts on serious violators and let minor violations be corrected without excessive fines.

This bill is particularly relevant to Louisiana's efforts to recover from Hurricanes Katrina and Rita. The small business base in south Louisiana was devastated. In many areas, it will be like starting from scratch, as they work to recover from the destruction. Small businesses are vital to our long term economic recovery. Surely, with so much on the line for our communities, and with so many bureaucratic delays already hindering our recovery, the last thing we need for our struggling small business community is assessment of major fines for minor paperwork violations.

I look forward to continuing our efforts to pass this bill and to promote the greater need of regulatory relief for our small businesses. This bill is an important interim step in that process.

Again, I want to thank you, Madam Chair, for having this hearing.